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Our ref: CP011/1631/0939/404988.00002

Your ref: 15/02183/FUL

18 June 2015

Dear Sirs

**Planning application number 15/02183/FUL - Gypsy Site at Half Pennyfield, Haselbury Plucknett**

We have been instructed by Haselbury Plucknett Parish Council to object to the proposed Gypsy site at Half Pennyfield, Haselbury Plucknett ("the Site") on the following grounds:

**1 Policy and Guidance**

It is recognised that the Council has a statutory duty to ensure there is adequate provision for Gypsy and traveller sites. However, this statutory duty does not take primacy over the other statutory duties of the Council.

Section 38(6) requires all planning applications to be determined in accordance with the statutory development plan unless material considerations indicate otherwise. The statutory development plan in this case comprises the South Somerset Local Plan (2006 – 2028) (adopted March 2015) ("the Local Plan")

In addition the following documents are material considerations of considerable weight in the determination of the Application:

The National Planning Policy Framework (NPPF)

DCLG's Planning Policy for Traveller Sites (March 2012)

Ministerial Statement of 25 March 2015

**2 Grant of an unrestricted Dwelling**

The Applicant has applied for the retention of a wooden lodge. If this were to be granted planning permission, this would effectively be granting planning permission for an unrestricted dwelling in the countryside.

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There is an overriding policy presumption against the creation of new dwellings in the countryside. The application runs contrary to this presumption.

Further, granting permission for the retention of the lodge would enable the Applicant to extend the lodge in accordance with permitted development rights, exacerbating the impact upon the locality.

### 3 Site Location

Haselbury Plucknett is a small village with clearly defined boundaries. There is a clear division between Haselbury Plucknett and the nearby settlement of North Perrott which is to the south and connected by the A3066. The development site lies in the open countryside between Haselbury Plucknett and North Perrott. The development is, therefore, contrary to both the Planning Policy for Traveller Sites and the National Planning Policy Framework.

The Application does not accord with North Perrott's Village Design Statement that was issued in 2003 which aims to preserve the physical separation of Haselbury Plucknett and North Perrott.

The Site is outside of the Development Boundaries for Haselbury Plucknett and North Perrott both of which are defined as Rural Settlements for the purposes of the Local Plan.

Paragraph 5.23 states:

*"5.23 Rural Settlements are considered as locations where there will be a presumption against development unless key sustainability criteria can be met. This is explained in Policy SS2. These settlements will no longer have identified development areas and will be considered to be within the open countryside for planning purposes." (Our emphasis).*

Paragraphs 5.31 and 5.32 then go on to state:

*"5.31 Applications for new development in Rural Settlements will need to include necessary supporting evidence to justify the criteria of Policy SS2 have been met..."*

*5.32 Given that Policy SS2 is starting from the premise of no development unless certain conditions are met, the evidence for development being of a strong sustainable nature is particularly important to provide. ..."*

Therefore, unless the Applicant is able to demonstrate that the criteria outlined in Policy SS2 have been met, the Application should be refused.

Policy SS2 states:

*"Policy SS2: Development in Rural Settlements*

*Development in Rural Settlements (not Market Towns or Rural Centres) will be strictly controlled and limited to that which:*

- *Provides employment opportunities appropriate to the scale of the settlement; and/or*
- *Creates or enhances community facilities and services to serve the settlement; and/or*

- *Meets identified housing need, particularly for affordable housing.*

*Development will be permitted where it is commensurate with the scale and character of the settlement, provides for one or more of the types of development above, and increases the sustainability of a settlement in general.*

*Proposals should be consistent with relevant community led plans, and should generally have the support of the local community following robust engagement and consultation.*

*Proposals for housing development should only be permitted in Rural Settlements that have access to two or more key services listed at Paragraph 5.41"*

Paragraph 5.47 acknowledges that the Parish Councils will play a key role in implementing Policy SS2. Therefore, the Parish Council's opinions as to whether Policy SS2 has been complied with should carry significant weight.

The proposed development comprises of the retention of a wooden lodge, a composting toilet, stables, tack room and the addition of a toilet shed. The proposal does not comply with Policy SS2. It will not provide employment opportunities, enhance community facilities and nor does it meet an identified housing need.

Paragraph 10.46 of the Local Plan states that under a countrywide assessment of the need for Gypsy, Traveller and Travelling Showpeople carried out in 2011 identified a need for 10 residential pitches in South Somerset by 2015, a target which has been exceeded. It is therefore argued that there is no identified housing need at present.

The Applicant has failed to discharge the evidential burden required to demonstrate that these criteria have been satisfied.

Planning Policy for Traveller Sites states that Local planning authorities should "*strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan*"

The Planning Policy for Traveller Sites also recommends that Local Planning Authorities should consider the use of previously developed (brownfield), untidy or derelict land. Ilminster is the nearest town which provides a range of services including schools, public amenities and good transport links. There are extensive opportunities to develop brownfield land on the outskirts of Ilminster which would be significantly more appropriate for development as a gypsy site than the proposed greenfield site in Haselbury Plucknett.

#### **4 Unsustainable Location**

The need to ensure that development is sustainable is a core principle that runs through policy at a local, regional and national level. The NPPF explains that "the purpose of planning is to help achieve sustainable development".

Policy HG7 of the Local Plan states that the accommodation needs of travellers "*will be met by ensuring that they are accommodated in sustainable locations where essential services are available.*" The policy then goes on to state that sites must be "*reasonably well related to schools and other community facilities*".

The Site is in the open countryside remote from services. Whilst it is accepted that the parishes of Haselbury Plucknett and North Perrott do offer services such as a village shop, church, primary school and pub, the nearest full services are at least 2.5 miles from the Site in Crewkerne and the Applicant would therefore be entirely reliant on private car journeys to access local services and facilities.

In their consultation response, the Highway Authority have stated that the Council should consider whether there are sustainability issues with regards to transport.

It is clear that creating a new traveller site in the open countryside in this location would not meet any definition of "sustainability". The proposals are, therefore, contrary to the NPPF and HG7 of the Local Plan.

## **5 Highways and access**

Stonage Lane connects into the A3066 which is a very busy route between the A30 and the A356. Access out of Stonage Lane onto the A3066 is very hazardous with very limited visibility. If the site is granted permission, the increased traffic movements at this junction will inevitably lead to an increased risk of accidents at the road junction. The Council will no doubt be aware that a larger traveller site for one of the Applicant's family members, a short distance away from the site was granted planning permission on Appeal in 2013 (Appeal Ref: APP/R3325/A/13/2200891) ("the 2013 Appeal").

In making his decision, the Inspector considered highway safety to be one of the main issues for his consideration. He said:

*"Nevertheless, having regard to all of the above matters, I am satisfied that the traffic needs of the appeal development would not result in any material increase in the use of the substandard Stonage Lane/A3066 road junction. I am also satisfied, on balance, that such a marginal increase in the level of the use of the junction as a consequence of the appeal development would not result in any material harm to highway safety, including to other road users. There may come a time when the cumulative impact of additional traffic movements using Stonage Land does result in such a harmful effect but there is no evidence before me that this is currently the case."*

The Inspector therefore acknowledged that whilst that particular development would not pose a risk to highway safety, there was the possibility that should more traffic use the access from Stonage Lane, cumulatively, this could have an unacceptable adverse impact upon the safety of the highway. The Inspector also noted that the Stonage Lane access was substandard.

In their consultation response, the Highway Authority stated that, whilst the Development is unlikely to have a significant impact on the approach roads, an assessment of the visibility splays, traffic speeds and highway safety should be undertaken in relation to the junction of Stonage Lane and the A3066. The Applicant has not submitted any form of assessment and so the risk to users of the highway cannot be fully assessed.

There is already congestion along Stonage Lane with agricultural and non-agricultural traffic. There are very few passing places for vehicles and vehicles must reverse to be able to pass each other. It should be noted that the Applicant has applied for a stables for three horses together with a tack room. Therefore, it is likely that the Applicant will also require the use of a horse box, which along with

their private vehicle, is likely to cause further congestion, traffic and risk when using the access onto Stonage Lane.

There is no guarantee that the stables will only be used by the Applicant. If there are multiple users of the stables, this will further increase the number of vehicular movements many of which will be with horse boxes or trailers.

Policy HG7 of the Local Plan states that the *"health and safety of occupants and visitors will not be at risk through unsafe access to sites, noise pollution or unacceptable flood risk"*. Due to the cumulative effect of the proposal together with other developments on Stonage Lane, it cannot be guaranteed that occupants and visitors will have safe access to the Site. Similarly, this is likely to cause safety issues for other highway users on Stonage Lane and the A3066.

We are instructed that Billy Hughes and his family are failing to comply with the conditions attached to the planning permission granted in relation to the Appeal which limited the type of vehicles that he is permitted to retain on his land. As a result the existing traveller site is generating vehicular movements well in excess (both in terms of number and type) to those anticipated or permitted, thus increasing the risk of an accident.

The National Planning Policy Framework also states at paragraph 32 that a factor to be considered is whether safe and suitable access to the site can be achieved for all. Again, the proposed development does not comply with the policy.

It would be inappropriate to grant permission where this would have a significant adverse impact on highway safety. The safety of local residents, potential site occupiers and other road users should not be put at risk no matter how significant or urgent the purported need for sites.

## **6 Landscape and Character**

The proposed development would have an adverse impact upon the character of the local area and is not in conformity with the surrounding types of development and land uses. Policy HG7 states that *"the development should not have a significant adverse impact on the landscape character and visual amenity of the area"*. The proposed development therefore does not accord with policy.

At the 2013 Appeal, the Inspector noted the use and development of the Appeal site did not conform to the predominant pattern of development found in the local area.

The Inspector found that any harm caused to the character of the area would be outweighed by the Appellant's personal circumstances (discussed below). The Applicant does not have any personal circumstances which would justify an impact upon the landscape character. Therefore, the Application should be refused in light of the impact that the development would have upon the local landscape character.

## **7 Over-Development and Fear of Setting a precedent**

As discussed above, an Appeal submitted by the Applicant's relative, Mr Billy Hughes, was granted planning permission in 2013. That planning permission was made personal to Mr and Mrs Hughes and their dependants.

Given that the 2013 Appeal appears to have encouraged a member of Mr Hughes' family to start to residentially occupy a site without permission and then seek to regularise the breach, the Parish Council is understandably concerned that should another traveller site be granted planning permission, this would set a precedent leading to further applications and an over development of the area. This incremental development will have a massive cumulative impact on the local landscape and community.

Planning Policy for Traveller Sites states that Local Planning Authorities should try to reduce tensions between settled and traveller communities in plan making and planning decisions. The policy further notes that the number of pitches or plots should be relative to the circumstances of the specific size and location of the site and the surrounding population's size and density. The policy then goes on to state:

*"when assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale or such sites does not dominate the nearest settled community."*

If the Application is granted planning permission, it is likely that local tensions will only worsen. Whilst the Parish Council accept the need to find sites for travellers, they consider that to have a further site in addition to the existing two sites in Haselbury Plucknett would be an over development of the locality and would begin to dominate the nearby village.

The local planning authority is entitled to take account of the prospect of a proliferation of similar planning applications if permission were granted as a material consideration: Collis Radio Ltd v Secretary of State for the Environment (1975) 73 LGR 211, 29 P & CR 390

Whilst the Parish Council of Haselbury Plucknett understands that a 'rural exception' can apply to applications for gypsy sites, the village has already made a 'rural exception' at New Lane and at the Appeal referred to above. It is considered that 'rural exception' should be just that! an exception rather than the norm. Therefore no further sites should be permitted in the Parish.

## **8 Differentiating the Application from the Appeal Ref: APP/R3325/A/13/2200891**

Due to the close proximity between the Site and the Appeal site, it is assumed that the Council will refer to the Inspector's decision notice when determining the Application. However, it should be noted that whilst the Inspector in the Appeal granted planning permission, the personal circumstances of the Appellants were given considerable weight. The Appellants had five children who the Inspector considered needed a permanent and settled base. For example, the Inspector placed weight on the fact that, if the Appeal had been refused, two of the children would have lost local work placements.

No such circumstances exist in this Application which would justify granting the planning permission and disregarding the concerns raised above.

## **9 Recent Planning Updates**

The majority of the development referred to within the Application is retrospective. The Applicant was living on Site prior to submitting the Application. Recently, there has been a notable push by Government to reduce the number of unauthorised encampments and to increase the effectiveness of enforcement action.

In a Planning Update issued by the Department for Communities and Local Government on 25 March 2015, the Rt Hon Eric Pickles made the following statement:

*“My department, in conjunction with the Home Office and Ministry of Justice, is publishing an updated guide for councils, police and crime commissioners and police forces on unauthorised encampments, and the powers that public bodies have. We are making very clear that public bodies should not gold-plate human rights and equality laws and turn a blind eye to breaches of the rules. The cause of equality is assisted by taking firm and fair action against anyone who breaches planning rules, and stopping the small number of cases which undermine community relations and hinder integration.”*

This demonstrates a clear political push for enforcement action to be taken against anyone who shows a disregard for planning control. The statement also recognises how a failure to take fast and effective enforcement action can undermine community relations.

Further, in a press release issued in September 2014 by the Department for Communities and Local Government, Brandon Lewis states that new measures are to be imposed to “*tackle travellers who flout planning rules and abuse the system*” and that there will be a “*crack down on unauthorised sites*”.

The release notes the four fold increase in the number of unauthorised encampments which creates tensions between travellers and the settled population. Brandon Lewis went on to say:

*“We will not sit back and allow people who bypass the law to then benefit from the protection it can offer.”*

Furthermore, he stated:

*“Today’s proposed measures go even further, and would end the perverse incentive for Councils not to act when travellers ignore planning rules and set up unauthorised sites”.*

The above releases and statements issued by the Department for Communities and Local Government clearly show that Councils should not be taking a lenient approach to unauthorised encampments and should be “cracking down” on sites where occupants have shown a disregard for planning control.

## **10 Imposition of Conditions**

In the event that the development is granted consent, Haselbury Plucknett Parish Council would wish to see the imposition of conditions to ensure that the planning permission is personal to the Applicant, to remove all permitted development rights and to place a limit on the number and type of vehicles that may be retained on the Site.

## **11 Conclusion**

This application should be refused on the following grounds:

It is contrary to policy;

It is in an unsustainable location;

It would have a negative impact upon the landscape character;  
the access arrangements are unsuitable and dangerous;  
the proposal would worsen tensions between travellers and the community;  
avoidance of setting a precedent for similar development in the Parish.

The Application conflicts with the statutory development plan and national planning policies and guidance in a number of respects. In many cases, the conflict with policy is so severe that, even taken in isolation, it would require the refusal of planning permission. When taken together, the conflict with policy is overwhelming. There is no way that permission should be granted for the proposed development.

There are no material considerations capable of outweighing the conflict with policy. Accordingly, permission should be refused.

Yours faithfully

A handwritten signature in black ink that reads "Clarke Willmott LLP". The signature is written in a cursive, flowing style.

Clarke Willmott LLP

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